



JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

Kimberly K. Brown
Assistant Corporation Counsel
Telephone: (212) 356-2457
E-mail: kibrown@law.nyc.gov
Email not for service

BY ECF

Hon. Alvin K. Hellerstein
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 1050
New York, New York 10007

Re: Springs v. City of New York et al.
19 CV 11555 (AKH) (KP)

Dear Judge Hellerstein:

I am an Assistant Corporation Counsel in the Office of James Johnson, Corporation Counsel of the City of New York, and attorney for the Defendants in the above-referenced action.

I write, in accordance with Your Honor's Individual Rules, to respectfully request an adjournment of the initial conference scheduled for April 24, 2020 and a stay of discovery pending resolution of Defendant's motion to dismiss which will be timely filed on or before May 11, 2020, in accordance with the Court's order dated March 6, 2020. This is the Defendants' first request for an adjournment and stay of discovery and plaintiff's counsel consents to this request.

A stay of discovery is warranted in the as plaintiff's claims are unmeritorious. Moreover, the parties anticipate substantial discovery, including numerous potential depositions of FDNY officers, firefighters, and medical professionals, and voluminous written discovery requests. Given that the anticipated motion is fully dispositive, plaintiff suffers no prejudice as a result of the stay of discovery. Federal Rule of Civil Procedure 26(c), provides that "a district court may stay discovery during the pendency of a motion to dismiss for 'good cause shown.'" *Chesney v. Valley Stream Union Free Sch. Dist. No. 24*, 236 F.R.D. 113, 115 (E.D.N.Y. 2006). Courts in this District consider the following factors in determining whether a stay is appropriate: "(1) whether the defendant has made a strong showing that the plaintiff's claim is unmeritorious; (2) the breadth of discovery and the burden of responding to it; and (3) the risk of unfair prejudice to the party opposing the stay." *Rivera v. Inc. Vill. of Farmingdale*, No. 09 Civ. 2613, 2007 U.S. Dist. LEXIS 99970, at *1 (E.D.N.Y. Oct. 17, 2007) (citation omitted).

April 22, 2020

*Conf is adjourned
until May 27, 2020 @
10:00 am
K. Brown
4-23-2020*

I thank the Court for consideration of this request.

Respectfully submitted,

ECF /s/ Kimberly K. Brown
Assistant Corporation Counsel

cc: Magistrate Judge Katharine Parker (ECF)

L & D Law P.C. (ECF)
Attorneys for Plaintiff